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SENATE BILL 2265

By Cooper

AN ACT to amend Tennessee Code Annotated, Section 6-1-202, Section 6-18-104; Section 6-30-106 and Section 6-51-102, to enact moratoriums on new incorporations and annexations by ordinance.

WHEREAS, controversies and conflicts regarding the annexation of territory by municipalities and the incorporation of new municipalities have increased during recent years to a critical level; and

WHEREAS, with the enactment of Public Chapter 98, which was passed during the 1997 session of the 100th General Assembly and subsequently invalidated by the Tennessee Supreme Court, issues were raised which demonstrate that the annexation policy of this State needs to be addressed by the General Assembly; and

WHEREAS, under current law, new annexations and incorporations are eroding county tax bases by altering the distribution of situs-based taxes, subsequently affecting the ability of county governments in this State to fund vital services, including public education, and likewise threatening the bond ratings of county governments which are currently attempting to raise large amounts of capital for use in the construction of new schools and educational facilities, all of which has the result of jeopardizing the achievement of the goals of the Education Improvement Act passed by this general assembly; and

WHEREAS, the Lieutenant Governor and the Speaker of the House wisely appointed an Ad Hoc Study Committee to make a thorough and public investigation and analysis of the issues involved in this problem; and

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WHEREAS, during the furor over Public Chapter 98, numerous communities quickly attempted to incorporate under the provisions of Public Chapter 98, and, likewise, after its invalidation, there has been a backlash from certain existing municipalities that have initiated a spate of new annexations; and

WHEREAS, the comprehensive reforms currently being examined by the study committee are in danger of being compromised by hasty, poorly planned annexations and incorporations; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 6-1-202, is amended by adding the following as a new appropriately designated subsection:

(_) Notwithstanding any other provision of law to the contrary, there is a moratorium on new incorporations of municipalities in the state of Tennessee. This moratorium shall apply to all incorporations which have not been finalized on the effective date of this act; provided, however, a municipality may incorporate if the incorporation is approved by a majority of the county legislative body. The moratorium shall remain in place until May 31, 1998.

SECTION 2. Tennessee Code Annotated, Section 6-18-104, is amended by adding the following as a new appropriately designated subsection:

(_) Notwithstanding any other provision of law to the contrary, there is a moratorium on new incorporations of municipalities in the state of Tennessee. This moratorium shall apply to all incorporations which have not been finalized on the effective date of this act; provided, however, a municipality may incorporate if the incorporation is approved by a majority of the county legislative body. The moratorium shall remain in place until May 31, 1998.

SECTION 3. Tennessee Code Annotated, Section 6-30-106, is amended by adding the following as a new appropriately designated subsection:

(_) Notwithstanding any other provision of law to the contrary, there is a moratorium on new incorporations of municipalities in the state of Tennessee. This moratorium shall apply to all incorporations which have not been finalized on the effective date of this act; provided, however, a municipality may incorporate if the incorporation is approved by a majority of the county legislative body. The moratorium shall remain in place until May 31, 1998.

SECTION 4. Tennessee Code Annotated, Section 6-51-102, is amended by adding the following as a new appropriately designated subsection:

(_) Notwithstanding any other provision of law to the contrary, there is a moratorium on annexation by ordinance by municipalities in the state of Tennessee. This moratorium shall apply to any annexation ordinance which have not passed final reading on the effective date of this act; provided, however, a municipality may annex by ordinance if the annexation is approved by a majority of the county legislative body. The moratorium shall remain in place until May 31, 1998.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.